



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/698,087 Confirmation No.:
Applicant : ROBERT S. HOWLAND
Filing Date : 10/31/2003
Title : MULTI SELECTIVE AXIS SPINAL FIXATION SYSTEM
Group Art Unit : Unknown
Examiner : Unassigned
Docket No. : 703716.4001
Customer No. : 34313

Mail Stop Patent Application
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. In accordance with the USPTO waiver of the requirement under 37 CFR 1.98(a)(2)(i), only copies of foreign patent documents and non-patent literature are enclosed for the convenience of the Examiner.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

CERTIFICATE OF MAILING (37 CFR §1.8)

I hereby certify, pursuant to 37 CFR §1.8, that I have reasonable basis to expect that that this paper or fee (along with any referred to as being attached or enclosed) would be mailed or transmitted on or before the date indicated with the United States Postal Service with sufficient postage as first class mail on the date shown below in an envelope addressed to Mail Stop Patent Application, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

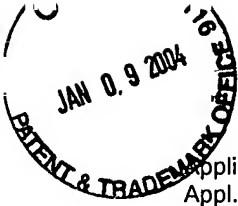
Dated: 01/07/2004


Signature of Person Mailing Document

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INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

- This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
- The fee due under 37 CFR § 1.17(p) is submitted herewith.
- A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.



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STATEMENT UNDER 37 CFR § 1.97(e):

- Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- A check in the amount of _____ is enclosed for the above fee(s).
- Please charge _____ to Deposit Account No. 15-0665 for the above fee(s).
- The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

By:


Samuel B. Stone
Reg. No. 19,297

Dated: January 7, 2004

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JAN 08 2004

PTO/SB/08A (05-03)

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Substitute for form 1449A/PTO				Complete if Known	
				Application Number	10/698,087
				Filing Date	10/31/2003
				First Named Inventor	Robert S. Howland
				Group Art Unit	Unknown
				Examiner Name	Unassigned
Sheet	1	of	10	Attorney Docket Number	703716.4001

U.S. PATENT DOCUMENTS						
Examiner Initials	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publications of Cited Documents MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ²			
	1	2,696,817	A	Prevo	12/14/1954	
	2	3,997,138	A	Crock et al.	12/14/1976	
	3	4,599,086	A	Doty	07/08/1986	
	4	4,648,388	A	Steffee	03/10/1987	
	5	4,653,481	A	Howland et al.	03/31/1987	
	6	4,719,905	A	Steffee	01/19/1988	
	7	4,743,256	A	Brantigan	05/10/1988	
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	9	4,805,602	A	Puno et al.	02/21/1989	
	10	4,815,453	A	Cotrel	03/28/1989	
	11	4,820,305	A	Harms et al.	04/11/1989	
	12	4,827,918	A	Olerud	05/09/1989	
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	16	4,863,476	A	Shepperd	09/05/1989	
	17	4,887,596	A	Sherman	12/19/1989	
	18	4,892,545	A	Day et al.	01/09/1990	
	19	4,931,055	A	Bumpus et al.	06/05/1990	
	20	4,932,975	A	Main et al.	06/12/1990	
	21	4,944,743	A	Gotzen et al.	07/31/1990	
	22	4,946,458	A	Harms et al.	08/07/1990	
	23	4,950,270	A	Bowman et al.	08/21/1990	
	24	4,963,144	A	Huene	10/16/1990	
	25	4,987,892	A	Krag et al.	01/29/1991	
	26	4,998,936	A	Mehdian	03/12/1991	
	27	5,000,165	A	Watanabe	03/19/1991	
	28	5,000,166	A	Karpf	03/19/1991	
	29	5,002,542	A	Frigg	03/26/1991	
	30	5,005,562	A	Cotrel	04/09/1991	
	31	5,007,909	A	Rogozinski	04/16/1991	
	32	5,010,879	A	Moriya et al.	04/30/1991	
	33	5,011,484	A	Bréard	04/30/1991	
Examiner Signature		DOCSOC1:146205.1			Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Substitute for form 1449A/PTO				Complete if Known	
 <p>INFORMATION DISCLOSURE STATEMENT BY APPLICANT JAN 09 2004</p> <p>(use as many sheets as necessary)</p>				Application Number	10/698,087
				Filing Date	10/31/2003
				First Named Inventor	Robert S. Howland
				Group Art Unit	Unknown
				Examiner Name	Unassigned
	2	of	10	Attorney Docket Number	703716.4001

34	5,015,247	A	Michelson	05/14/1991	
35	5,030,220	A	Howland	07/09/1991	
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37	5,041,113	A	Biedermann et al.	08/20/1991	
38	5,042,982	A	Harms et al.	08/27/1991	
39	5,047,029	A	Aebi et al.	09/10/1991	
40	5,053,034	A	Olerud	10/01/1991	
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42	5,062,850	A	MacMillan et al.	11/05/1991	
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44	5,067,956	A	Buford, III et al.	11/26/1991	
45	5,084,048	A	Jacob et al.	01/28/1992	
46	5,084,049	A	Asher et al.	01/28/1992	
47	5,084,050	A	Draenert	01/28/1992	
48	5,085,660	A	Lin	02/04/1992	
49	5,092,866	A	Breard et al.	03/03/1992	
50	5,092,867	A	Harms et al.	03/03/1992	
51	5,092,893	A	Smith	03/03/1992	
52	5,098,434	A	Serbousek	03/24/1992	
53	5,108,395	A	Laurain	04/28/1992	
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55	5,112,332	A	Cozad et al.	05/12/1992	
56	5,120,171	A	Lasner	06/09/1992	
57	5,122,131	A	Tsou	06/16/1992	
58	5,127,912	A	Ray et al.	07/07/1992	
59	5,129,388	A	Vignaud et al.	07/14/1992	
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63	5,133,716	A	Plaza	07/28/1992	
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65	5,147,359	A	Cozad et al.	09/15/1992	
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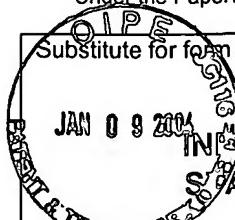
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				Application Number	10/698,087
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				Group Art Unit	Unknown
				Examiner Name	Unassigned
Sheet	3	of	10	Attorney Docket Number	703716.4001

70	5,147,402	A	Bohler et al.	09/15/1992	
71	5,147,404	A	Downey	09/15/1992	
72	5,151,103	A	Tepic et al.	09/29/1992	
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74	5,154,718	A	Cozad et al.	10/13/1992	
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83	5,176,678	A	Tsou	01/05/1993	
84	5,176,679	A	Lin	01/05/1993	
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92	5,196,013	A	Harms et al.	03/23/1993	
93	5,196,014	A	Lin	03/23/1993	
94	5,196,015	A	Neubardt	03/23/1993	
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96	5,207,678	A	Harms et al.	05/04/1993	
97	5,209,751	A	Farris et al.	05/11/1993	
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Examiner Signature	DOCSOC1:146205.1	Date Considered
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					Application Number	10/698,087
					Filing Date	10/31/2003
					First Named Inventor	Robert S. Howland
					Group Art Unit	Unknown
					Examiner Name	Unassigned
Sheet	4	of	10		Attorney Docket Number	703716.4001

106	5,234,430	A	Huebner	08/10/1993	
107	5,234,431	A	Keller	08/10/1993	
108	5,236,431	A	Gogolewski et al.	08/17/1993	
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140	5,306,310	A	Siebels	04/26/1994	
141	5,306,311	A	Stone et al.	04/26/1994	

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Sheet	5	of	10	Attorney Docket Number	703716.4001	

142	5,312,404	A	Asher et al.	05/17/1994	
143	5,312,405	A	Korotko et al.	05/17/1994	
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154	5,380,323	A	Howland	01/10/1995	
155	5,380,324	A	Müller et al.	01/10/1995	
156	5,380,325	A	Lahille et al.	01/10/1995	
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162	5,387,212	A	Yuan et al.	02/07/1995	
163	5,387,213	A	Breard et al.	02/07/1995	
164	5,423,816	A	Lin	06/13/1995	
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169	5,437,669	A	Yuan et al.	08/01/1995	
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172	5,443,467	A	Biedermann et al.	08/22/1995	
173	5,466,237	A	Byrd, III et al.	11/14/1995	
174	5,474,555	A	Puno et al.	12/12/1995	
175	5,487,744	A	Howland	01/30/1996	
176	5,496,318	A	Howland et al.	03/05/1996	
177	5,545,164	A	Howland	08/13/1996	

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Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Complete if Known	
Street	6	of	10	Application Number	10/698,087
				Filing Date	10/31/2003
				First Named Inventor	Robert S. Howland
				Group Art Unit	Unknown
				Examiner Name	Unassigned
				Attorney Docket Number	703716.4001

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					First Named Inventor	Robert S. Howland
					Group Art Unit	Unknown
					Examiner Name	Unassigned
Sheet	7	of	10		Attorney Docket Number	703716.4001

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Examiner Initials	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publications of Cited Documents MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵				

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner Initials'	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	231	Centerpulse Spine-Tech Website pages on the ST360™ Spinal Fixation System (http://www.centerpulsespinetech.com/spine/products/lumbar/st360/index)	
	232	Centerpulse Spine-Tech Website pages on the Silhouette™ product (http://www.centerpulsespinetech.com/spine/products/lumbar/silhouette/index)	
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				Filing Date	10/31/2003
				First Named Inventor	Robert S. Howland
				Group Art Unit	Unknown
				Examiner Name	Unassigned
	8	of	10	Attorney Docket Number	703716.4001

	234	Centerpulse Spine-Tech Website pages on the DYNESYS® The Dynamic Stabilization System (http://www.centerpulsespinetech.com/spine/products/lumbar/dynesys/index)	
	235	Medtronic Sofamor Danek Website pages on the TSRH® Spinal System (http://www.sofamordanek.com/stripcontent.php?parent_file=/physician-spinal-trsh.html...)	
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	237	Medtronic Sofamor Danek Website pages on the CD HORIZON® M8 and M10 Spinal Systems (http://www.sofamordanek.com/stripcontent.php?parent_file=/physician-spinal-fas.html&...)	
	238	Medtronic Sofamor Danek Website pages on the CD HORIZON® M8 and M10 Multi Axial Screw Spinal Systems (http://www.sofamordanek.com/stripcontent.php?parent_file=/physician-spinal-mas.html...)	
	239	Medtronic Sofamor Danek Website pages on the COLORADO 2™ Spinal System (http://www.sofamordanek.com/stripcontent.php?parent_file=/physician-spinal-colorado.h...)	
	240	Medtronic Sofamor Danek Website pages on the TSRH-3D® Vertebral Body Reduction Spinal Instrumentation (http://www.sofamordanek.com/stripcontent.php?parent_file=/physician-spinal-trshvbr.ht...)	
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Supporting form 1449A/PTO JAN 09 2004 INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
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				Filing Date	10/31/2003
				First Named Inventor	Robert S. Howland
				Group Art Unit	Unknown
				Examiner Name	Unassigned
				Attorney Docket Number	703716.4001

252	Interpore Cross International Website pages on the Altius™ System Occipito-Cervico-Thoracic Posterior Spinal Fixation (http://www.interpore.com/product_altius.html), 2003
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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet	10	of	10	Attorney Docket Number	703716.4001
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270	DePuy Spine, Inc. Website pages on the FRONTIER™ (http://www.depuyacromed.com/products/deformity/frontier.asp), 2003	
271	DePuy Spine, Inc. Website pages on the CROSSOVER™ (http://www.depuyacromed.com/products/deformity/cross.asp), 2003	
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